

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Kim Cramton,

10 Plaintiff,

11 v.

12 Grabbagreen Franchising LLC, et al.,

13 Defendants.  
14

No. CV-17-04663-PHX-DWL

**ORDER**

15 On June 7, 2019, attorneys Erin A. Hertzog, Jeff Bouma, Larry Cohen, and Joel  
16 Fugate of Cronus Law, PLLC (“Cronus”) filed a “Notice of Substitution of Counsel”  
17 (“Notice”), purporting to inform the Court that they were substituting themselves into this  
18 action as counsel for Defendants/Counterclaimants Grabbagreen Franchising, LLC, Eat  
19 Clean Operations, LLC, Eat Clean Holdings, LLC, and Keely Newman, currently  
20 represented by Tiffany & Bosco PA (“T&B”). (Doc. 187.) This is impermissible.  
21 Pursuant to LRCiv 83.3(b), a notice will suffice only when there is a change of counsel  
22 *within the same law office*. Otherwise, “no attorney shall be permitted to withdraw or be  
23 substituted as attorney of record in any pending action except by formal written order of  
24 the Court, supported by written application setting forth the reasons therefor,” and  
25 following certain procedural requirements. LRCiv 83.3(b).

26 The docket in this action appears to inaccurately reflect the representation of  
27 Defendants/Counterclaimants Grabbagreen Franchising, LLC, Eat Clean Operations, LLC,  
28 Eat Clean Holdings, LLC, and Keely Newman, as well as Defendant/Counterclaimant Kelli

1 Newman and Counterclaimant Gulf Girl Squared Incorporated. Rather than attempting to  
2 summarize the convoluted representations as currently listed in the docket, the Court will  
3 instead explain what happened.

4 As of April 16, 2019, all of the above-mentioned parties were represented by T&B  
5 attorneys Jack Robert Vrablik, Robert A. Royal, and Erin A. Hertzog.<sup>1</sup> (*E.g.*, Docs. 163,  
6 172.)

7 On April 26, 2019, Erin Hertzog (at that time an attorney at T&B, currently an  
8 attorney at Cronus) filed—on T&B letterhead—a “Notice of Disassociation of Counsel”  
9 (Doc. 174), stating: “Pursuant to Local Rule of Civil Procedure 83.3(b)(4), Erin A.  
10 Hertzog, an attorney of record for Defendants/Counterclaimants Grabbagreen Franchising,  
11 LLC, Eat Clean Operations, LLC, Eat Clean Holdings, LLC, Gulf Girl Squared, Inc., Kelli  
12 Newman and Keely Newman, is withdrawing her association as an attorney of record for  
13 Defendants/Counterclaimants Grabbagreen Franchising, LLC, Eat Clean Operations, LLC,  
14 Eat Clean Holdings, LLC, Gulf Girl Squared, Inc., Kelli Newman and Keely Newman in  
15 the above-referenced matter. All communications, pleadings, correspondence and the like  
16 shall be directed to Defendants’/Counterclaimants’ lead counsel of record, Robert A.  
17 Royal, as of the date of this filing.” Thus, after this filing, Erin Hertzog represented no one  
18 in this action, and all of the above-mentioned parties were represented by T&B attorneys  
19 Jack Robert Vrablik and Robert A. Royal only.

20 On May 15, 2019, Defendant/Counterclaimant Kelli Newman (not her spouse,  
21 Keely Newman) filed her Ex Parte Motion for Withdrawal of Counsel and Substitution As  
22 Self-Represented Litigant. (Doc. 176.) On May 16, 2019, the Court granted the motion.  
23 (Doc. 178.)

24 Thus, as of May 16, 2019, Kelli Newman appeared pro se, and all of the other above-  
25 mentioned parties were represented by T&B attorneys Jack Robert Vrablik and Robert A.  
26 Royal. Indeed, all of the filings from May 16, 2019 for all of the  
27 Defendants/Counterclaimants except Kelli Newman have been filed by T&B attorneys

28 <sup>1</sup> T&B attorney Amy D. Sells appears in the signature block on various filings but  
apparently never appeared in this action as counsel of record, as required by LRCiv 83.3(a).

1 Vrablik and Royal, as recently as June 3, 2019 (Doc. 185), until terminated attorney Erin  
2 Hertzog purported to file a “Notice” substituting Cronus attorneys Erin Hertzog, Larry  
3 Cohen, Jeff Bouma, and Joel Fugate on June 7, 2019. (Doc. 187.)

4 To the extent that the “Notice” at Doc. 187 can be construed as a motion, it will be  
5 denied for failure to conform with the requirements of LRCiv 83.3. Thus,  
6 Defendant/Counterclaimant Kelli Newman remains pro se (for both her defense and  
7 counterclaim), Defendants/Counterclaimants Grabbagreen Franchising, LLC, Eat Clean  
8 Operations, LLC, Eat Clean Holdings, LLC, and Keely Newman remain represented (in  
9 their defenses and counterclaims) by T&B attorneys Jack Robert Vrablik and Robert A.  
10 Royal, and Counterclaimant Gulf Girl Squared Incorporated likewise remains represented  
11 by T&B attorneys Jack Robert Vrablik and Robert A. Royal. No party in this action is  
12 currently represented by Cronus attorneys Erin Hertzog, Larry Cohen, Jeff Bouma, and  
13 Joel Fugate, because they have not yet sought and obtained an Order from the Court  
14 permitting them to be substituted as counsel of record. Thus, the Court will not consider  
15 the statement of discovery dispute (Doc. 188), filed by Cronus attorney Erin Hertzog,  
16 unless and until Ms. Hertzog becomes counsel of record for the parties she purports to  
17 represent in this action.

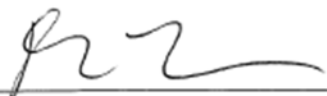
18 Accordingly,

19 **IT IS ORDERED** that the “Notice” (Doc. 187) is denied. The Clerk of Court is  
20 directed to update the docket to indicate that Defendant/Counterclaimant **Kelli** Newman is  
21 pro se (for both her defense and counterclaim) pursuant to the Court’s May 16, 2019 Order  
22 (Doc. 178), Defendants/Counterclaimants Grabbagreen Franchising, LLC, Eat Clean  
23 Operations, LLC, Eat Clean Holdings, LLC, and **Keely** Newman are represented (in their  
24 defenses and counterclaims) by T&B attorneys Jack Robert Vrablik and Robert A. Royal,  
25 and Counterclaimant Gulf Girl Squared Incorporated likewise is represented by T&B  
26 attorneys Jack Robert Vrablik and Robert A. Royal. The docket should reflect that Erin  
27 Hertzog was terminated per her April 26, 2019 “Notice of Disassociation of Counsel” (Doc.

28 ...

1 174). The docket should further reflect that Cronus attorneys Larry Cohen, Jeff Bouma,  
2 and Joel Fugate have never represented any party in this action.

3 Dated this 17th day of June, 2019.

4  
5  
6   
7 \_\_\_\_\_  
8 Dominic W. Lanza  
9 United States District Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28